

IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

FRIDAY, THE FIFTEENTH DAY OF APRIL
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MR JUSTICE B. SUDERSHAN REDDY

and

THE HON'BLE MR JUSTICE C.V.RAMULU

WRIT PETITION NO : 7889 of 2005

Between:

Katepalli Rambabu, s/o Kotaiah,
r/o Pinnelli Village, Machavaram (M), Guntur District.

..... PETITIONER

AND

- 1 The Station House Officer, Pinnelli Village, Machavaram (M), Guntur District.
- 2 The Superintendent of Police, Guntur District at Guntur.

.....RESPONDENT(S)

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the affidavit filed herein the High Court may be pleased to issue an order, direction, or a writ, more particularly one in the nature of writ of Habeas Corpus directing the respondents herein to produce Katepalli Kotaiah, s/o Rama Kotaiah and Lakshman @ Samba, brother and friend respectively of the petitioner herein, before this Hon'ble Court, who were arrested by the Police Personnel in Pinnelli and Takkellapadu Villages on 29-03-2005 and 30-03-2005 respectively, and were kept in custody with the Superintendent of Police, Guntur, since 04-04-05, apprehending danger to their lives, and set them at liberty forthwith and to pass such other or further orders as this Hon'ble Court may deem fit and proper in the circumstances of the case.

Counsel for the Petitioner: PETITION

Counsel for the Respondents: THE ADVOCATE GENERAL

The Court at the stage of admission made the following ORDER: (per BRSR, J)

This writ petition is taken on file on the strength of the letter dated 04-04-2005 sent by the petitioner herein alleging that one Katepalli Kotaiah, S/o Rama Kotaiah and Lakshman @ Samba, were arrested by the police personnel in Pinnelli and Takkellapadu Villages on 29-03-2005 and 30-03-2005 respectively and were kept in the custody of the Superintendent of Police, Guntur, since 04-04-2005 without producing them before the Magistrate as is required in law. Apprehending danger to the lives of the alleged detenus, the letter has been addressed, which is taken on file by this Court.

In the counter-affidavit filed by the Sub-Inspector of Police, Dachepalle Police Station, Guntur District, it is stated that so far as Katepalli Kotaiah, S/o Ramakotaiah is concerned, he is an accused in Crime No.21 of 2005 under Section 307 IPC, Section 5 of E.S. Act, Sections 25 and 27 of Arms Act and Clause 8(1) of A.P. Public Security Act, registered at Machavaram Police Station, Guntur District, on 11-04-2005. It is admitted that the alleged detenu was taken into custody on 11-04-2005 at Kotha Pinneli Donka and one Tapancha, 4 rounds of ammunition and one landmine with detonators were seized from him.

Be that as it may, after complying with the formalities, the said K.Kotaiah was arrested and produced before the learned I-Additional Judicial First Class Magistrate, Gurajala, by the police of Machavaram Police Station on 12-04-2005 and upon such production, the learned Magistrate directed to send him to judicial custody up to 26-04-2005. As at present, the said K.Kotaiah is lodged at Sub-Jail, Gurajala, Guntur District. In the circumstances, a writ of Habeas Corpus does not lie.

That so far as the allegation that Lakshman @ Samba was also taken into custody, it is stated in the counter-affidavit that the alleged detenu is an underground extremist of Janashakti Dalam of C.P.I.M.L. Party. He is involved in Crime No.13 of 2005 registered under Sections 147, 148, 307, 302 read with 149 IPC, Sections 25 and 27 of Arms Act and Section 8(1) of A.P. Public Security Act on the file of the Dachepalle

Police Station. He is absconding and his whereabouts are not known. All efforts are being made to arrest him in connection with the said crime. It is also stated that as and when he is arrested, he will be produced before the concerned.

For the present, no directions need be issued. The writ petition shall accordingly stand dismissed.

(B.SUDERSHAN REDDY, J)

15th APRIL, 2005.

(C.V.RAMULU, J)

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To

- 1 The Station House Officer, Pinnelli Village, Machavaram (M), Guntur District.
- 2 The Superintendent of Police, Guntur District at Guntur.
- 3 Two CD copies.